

Federal Court



Cour fédérale

Date: 20190403

Docket: IMM-1381-18

Citation: 2019 FC 401

Ottawa, Ontario, April 3, 2019

PRESENT: The Honourable Mr. Justice Norris

BETWEEN:

**KALMAN OLAH
ROZALIA KOLOMPAR
KALMAN OLAH
KARMEN ROZALIA OLAH
RAMONA ILONA OLAH
ROBERTO FERDINANDO OLAH**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. OVERVIEW

[1] This is an application for judicial review of the decision of the Refugee Protection Division [RPD] of the Immigration and Refugee Board of Canada [IRB] rejecting the applicants'

claims for refugee protection. The principal claimant (Mr. Kalman Olah) [PC], his wife (Ms. Rozalia Kolompar) and their children (Kalman, Karmen Rozalia, Ramona Ilona and Roberto Ferdinando) are all citizens of Hungary. They came to Canada in April 2012 and applied for refugee protection. They claim to fear persecution on the basis of their Roma ethnicity. They allege that while living in Hungary, they suffered discrimination, harassment, threats, and physical and sexual violence because they are Roma. When the family made its claim for protection in 2012, three of the four children were minors.

[2] The basis for the applicants' claims was set out in a Personal Information Form [PIF] including a narrative which was submitted in May 2012. Amendments to the PIF and to the narrative were submitted in November 2017.

[3] The claims were heard jointly by the RPD on November 20, 2017. For reasons dated March 2, 2018, the RPD rejected the claims.

[4] The applicants now seek judicial review of this decision under section 72(1) of the *Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA]*. They submit that the RPD erred in its credibility assessments, in its finding that the discrimination the applicants had experienced did not amount to persecution, and in its finding on state protection.

[5] For the reasons that follow, I have concluded that there must be a new hearing. Evidently attempting to follow the *Chairperson Guidelines 4: Women Refugee Claimants Fearing Gender-Related Persecution [Gender Guidelines]*, at the hearing the member expressly declined to

examine a serious incident of racially motivated sexual violence alleged by the claimants. However, in her reasons for dismissing the claims, the member made several adverse findings concerning the credibility of this allegation. In my view, the member's understanding of what the *Gender Guidelines* required in the circumstances of this case is unreasonable. This was not a harmless error. It went to the core of the family's claim for protection.

II. DECISION UNDER REVIEW

[6] The RPD found that the applicants had established their personal identities as citizens of Hungary of Roma ethnicity. It rejected their claims, however, because it found that they had not met their onus of demonstrating that they would face persecution if they returned to Hungary and, further, that they had not rebutted the presumption that state protection was available to them.

[7] The applicants alleged that they had been victimized in a number of racially motivated incidents in Hungary over many years. The incidents ranged from abusive conduct directed at the children while they were at school to assaults and harassment on the street to a Molotov cocktail being thrown at their house to the rape of Ms. Kolompar by a group of four men in October 2009. The applicants stated that they had reported some of the incidents to the authorities, including to the police, but no action was ever taken. Other incidents they simply did not bother reporting because they believed it would do no good. In the case of the rape of Ms. Kolompar, she states that she was too fearful to report it to the police or seek medical attention at the time. She became pregnant as a result of the attack and terminated the pregnancy about a month later.

[8] The RPD member found that there were several reasons to doubt the credibility of the refugee claim.

[9] With respect to Ms. Kolompar's account of being raped in October 2009, the member stated the following:

The female claimant testified first. I asked her what the worst thing is that happened to her in Hungary. She testified that she was too ashamed to talk about the incident in front of her children. She was obviously referring to the rape by four men. She did not testify further about the incident. However, from the PIF it is not indicated that she knew the rapists, and she did not know if they were Hungarian Guards or not. I accept that this would be a very traumatic event for any woman, especially with her child nearby. However, there is no evidence that the rape was racially motivated. It was an isolated incident.

The female claimant did not go to the doctor after the rape nor to the police. However, in the Addendum submitted by the PC on November 29, 2017, the PC alleges that the female claimant told him that when the PC was showing her photographs he received from Hungary, that she recognized a man named Istvan, a local captain of the Hungarian Guard, as one of the man [*sic*] who had raped her. However, in the PIF narrative the female claimant had not indicated that she recognized any of the four rapists, and she was not sure that any were Guards. She explained to the PC that she did not want to tell him about Istvan in Hungary, because she was afraid that the PC would try to exact revenge. However, at the time the female claimant told the PC about Istvan, the claimants were about to have a hearing for their refugee claim, and facing a real possibility that they may have to return to Hungary. Therefore, I find it unlikely that the female claimant would tell him about Istvan at this point as the PC could very well have to return to Hungary and still want to exact revenge and thus jeopardize his own safety. I find that this new allegation casts doubt on the female claimant's allegations about the rape. I also note that the female claimant gave no objective medical evidence she had an abortion one month following the alleged rape.

[10] Turning to the allegations of abuse at school, the RPD member found that Karmen's testimony was vague and that she had recalled only a single instance of mistreatment in Hungary. The PIF, on the other hand, had detailed frequent abuse at school. In the view of the RPD member, if Karmen had been abused as frequently as alleged in the PIF, she would have been able to recall it. The RPD member found that she "was probably just teased as she testified, and that the PC is embellishing the story." On this basis, the member drew a negative inference. The member drew similar conclusions regarding the allegation that the eldest son, Kalman, had also been subjected to abuse at school. The member also found that the applicants' last minute amendment to their PIF to add an address in Budapest cast doubt on the claim in their original narrative that they had tried to escape the persecution in their home town of Baja by moving to Budapest briefly in 2001. (The applicants said they stayed in Budapest for only three months before returning home because the conditions there were even worse than in Baja.)

[11] Further, the member found that the applicants had not submitted "the most important documents to support their case as required by Rule 11." In the member's view, the applicants had failed to make sufficient efforts to obtain reports to corroborate their claim – in particular, police reports and medical documentation.

[12] With respect to the question of whether the treatment of the applicants in Hungary amounted to persecution, the member noted that it was difficult to judge the truth of the applicants' allegations. Nevertheless, the member accepted that the applicants "likely suffered some discrimination and harassment because of their Roma identity" but found that "it is unlikely that they were severely impacted" in relation to housing, education, employment or

health care. In short, the member found that any discrimination the applicants faced did not amount to persecution individually or cumulatively because the treatment was not a “sustained or systemic violation of human rights demonstrative of a failure of state protection” (quoting *Canada (Attorney General) v Ward*, [1993] 2 SCR 689).

[13] While the member noted that the applicants relied on several examples of successful refugee claims by Hungarian Roma, including friends and family members, she dismissed this evidence. The member simply stated that because “each case is decided on its own facts and the evidence presented,” she did not find the other decisions persuasive.

[14] Finally, the member found that the applicants had failed to rebut the presumption of state protection. Specifically, the member found that the applicants had not “credibly established that they have met their evidentiary burden with regard to their attempts to obtain state protection.” The applicants had not “presented any credible evidence indicating that they sought state protection and were refused.”

III. STANDARD OF REVIEW

[15] It is well-established that this Court reviews the RPD’s assessment of the evidence before it on a reasonableness standard (*Hou v Canada (Citizenship and Immigration)*, 2012 FC 993 at paras 6-15 [*Hou*]). This standard applies to the RPD’s factual findings, including its credibility determinations (*Pournaminivas v Canada (Citizenship and Immigration)*, 2015 FC 1099 at para 5; *Nweke v Canada (Citizenship and Immigration)*, 2017 FC 242 at para 17) and its

interpretation of documentary evidence (*Abdulkadir v Canada (Citizenship and Immigration)*, 2018 FC 318 at para 21).

[16] It is also well-established that this Court should show significant deference to the RPD's credibility findings (*Su v Canada (Citizenship and Immigration)*, 2013 FC 518 at para 7). This is because the RPD is well-placed to assess credibility (*Aguebor v Canada (Minister of Employment and Immigration)* (1993), 160 NR 315, [1993] FCJ No 732 (FCA) at para 4 (QL); *Hou* at para 7). It has the advantage of observing the witnesses who testify and it may have expertise in the subject matter that the reviewing court does not share, including with respect to country conditions (*Rahal v Canada (Citizenship and Immigration)*, 2012 FC 319 at para 42; *Zhou v Canada (Citizenship and Immigration)*, 2015 FC 821 at para 58). Nevertheless, the reviewing court has a duty to ensure that the RPD's credibility findings are reasonable.

[17] Reasonableness review "is concerned with the reasonableness of the substantive outcome of the decision, and with the process of articulating that outcome" (*Canada (Attorney General) v Igloo Vikski Inc*, 2016 SCC 38 at para 18). The reviewing court examines the decision for "the existence of justification, transparency and intelligibility within the decision-making process" and determines "whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law" (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47). These criteria are met if "the reasons allow the reviewing court to understand why the tribunal made its decision and permit it to determine whether the conclusion is within the range of acceptable outcomes" (*Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at para 16). The reviewing court should

intervene only if these criteria are not met. It is not the role of the reviewing court to reweigh the evidence or to substitute its own view of a preferable outcome (*Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at paras 59 and 61). On the other hand, a conclusion will not be rational or defensible if the decision-maker has failed to carry out the proper analysis (*Lake v Canada (Minister of Justice)*, 2008 SCC 23 at para 41).

IV. ANALYSIS

[18] As noted above, the applicants submit that the RPD erred in its credibility assessments, in its finding that the discrimination the applicants had experienced did not amount to persecution, and in its finding on state protection. In my view, it is only necessary to address the applicants' challenge to the member's credibility findings. In particular, I find that the member failed to carry out the proper analysis of Ms. Kolompar's allegation that she was raped by members of the Hungarian Guard in light of the *Gender Guidelines*. This is sufficient to require a new hearing for all the applicants.

A. *The Rape Allegation*

[19] To put this issue in context, some additional background information is required.

[20] The original 2012 narrative was provided by the principal claimant, Mr. Olah, on behalf of himself and his family. In it, he described an incident in October 2009 when his wife had gone shopping with their youngest son, Roberto (who would have been four years of age at the time). A man approached Ms. Kolompar, purporting to ask for directions. According to the

narrative, Ms. Kolompar thought the man was a Hungarian Guard but she had only “vague memories” if his jacket had writing on it or not. Three more men approached. They told Ms. Kolompar to get into a car or they would kill her son. The four men drove Ms. Kolompar and Roberto to the forest. They told her that unless she did what they wanted they would kill the boy. All four men then raped Ms. Kolompar. Roberto remained in the front seat of the car crying. The four men “cursed and mocked” Ms. Kolompar throughout the attack. When they were done, they drove off, leaving Ms. Kolompar and Roberto behind. The men told Ms. Kolompar not to say anything or they would kill her and her family. Mr. Olah did not learn of the incident until a week later, when Roberto told him about it. They did not report the incident because they were ashamed. Ms. Kolompar did not go to the doctor at the time but she became pregnant as a result of the attack. She had an abortion at the end of November.

[21] In an amendment to the narrative dated November 8, 2017, Mr. Olah states that after he and Ms. Kolompar were in Canada, the two of them were looking at photographs of Istvan Meszaros, a senior member of the Hungarian Guard. Ms. Kolompar said that Meszaros had been involved in the attack on her in 2009. She explained to her husband that she did not say anything about this when they were still in Hungary because she was worried that he would endanger himself by seeking revenge. Now that they were in Canada, she felt comfortable telling him. Mr. Olah stated in the amended narrative: “I am certain that I will deal with Meszaros if ever I find myself in Hungary. I cannot let this go unresolved. I am more angry at him, than scared of him. This worries me. I do not want to end up in jail in avenging her. What husband could tolerate the rape of his wife.” With respect to his wife’s current condition,

Mr. Olah stated: “My wife is terrified. She cries all the time, moans, saying ‘Oh my God’ all the time. She seeks treatment at her doctor and referral to a psychologist. She takes relaxants.”

B. *The RPD Hearing*

[22] At the hearing, the member questioned Ms. Kolompar first. After some preliminary questions, including about how Ms. Kolompar was feeling, the following exchange occurred:

MEMBER: And what are the worst things that happened to you, personally, in Hungary?

CO-CLAIMANT #1: I am very ashamed to talk about it.

MEMBER: Your children are here, correct?

CO-CLAIMANT #1: Yes.

MEMBER: Okay, we will skip that. It is in – it is in here. We will skip that incident.

CO-CLAIMANT #1: I – I am ashamed of talking about it. But if it is necessary then ...

MEMBER: Well, I have it in here, so – yeah. So do your children know about it?

CO-CLAIMANT #1: My little son was with me. He was with me – he was – I hope that he already forget [*sic*].

MEMBER: Okay. Well, we will skip that one. Besides that, what else happened to you that was very disturbing to you in Hungary?

Ms. Kolompar then went on to describe other incidents. The member did not return to the rape incident with her.

[23] The rape incident comes up only three other times in the hearing. The first is when Mr. Olah identifies photographs of Istvan Meszaros as one of his wife's attackers. Later on, when asked by his counsel if he thinks about what would happen if he returned to Hungary, Mr. Olah brings up Meszaros again. He states that while he is in Canada there is nothing he can do. If he were to be back in Hungary, he "cannot avoid meeting him." He continued: "If I go home, I – I would ask him. When I am 10,000 kilometres away, so I cannot ask him. But if I stand in front of him, I do not know what happens." Finally, right after this, Ms. Kolompar says she would like to say something. She states that she was threatened that if she told the police or her family or anyone else about the attack, her family would be executed. The member did not ask any follow-up questions about any of these matters.

C. *General Principles*

[24] The onus rests on a refugee claimant to establish the essential elements of his or her claim for protection. When this claim is heard by the RPD, the *IRPA* makes a number of allowances to permit refugee determinations to be made fairly and expeditiously, without all the procedural formalities of a court proceeding, and on the basis of a broader range of evidence than would typically be admissible in other types of legal proceedings. Thus, among other things, section 170 of the *IRPA* provides that the RPD "may inquire into any matter that it considers relevant to establishing whether a claim is well-founded," it "may question the witnesses, including the person who is the subject of the proceeding," it "is not bound by any legal or technical rules of evidence," it "may receive and base a decision on evidence that is adduced in the proceedings and considered credible or trustworthy in the circumstances," and it "may take

notice of any facts that may be judicially noticed, any other generally recognized facts and any information or opinion that is within its specialized knowledge.”

[25] Presiding over proceedings that are more inquisitorial than adversarial, RPD members have an important and difficult role to play. Determining whether a claim is well-founded or not often involves at least some degree of testing of the evidence, particularly the *viva voce* testimony of a claimant. Fairness requires that the claimant have a reasonable opportunity to respond to any concerns the member may have about the claim. This can sometimes mean that probing or even pointed questions must be put to the claimant so that he or she has an opportunity to respond to them, if possible. At the same time, members must not test a claim in ways that reasonably suggest that they have prejudged a case, in ways that prevent claimants from giving as complete and accurate an account as they are able to provide, or in ways which themselves could (re)traumatize the claimant.

[26] Presenting a refugee claim often requires giving evidence of deeply personal and traumatic experiences. This can be profoundly difficult for claimants. Moreover, individuals’ experiences of the events that underlie their claims for protection can be shaped by cultural norms or backgrounds that are not shared by the decision-maker. Unless they are recognized and accounted for, these circumstances can jeopardize the integrity of the refugee determination process and call into question the soundness of its results. To address this, the Chairperson of the IRB has established, among resources, the *Gender Guidelines*.

[27] The *Gender Guidelines* are not the law but, as the name suggests, they are meant to guide decision-makers (*Moya v Canada (Citizenship and Immigration)*, 2016 FC 315 at para 36).

Among other things, the *Gender Guidelines* provide guidance concerning the assessment of the feared harm, evidentiary matters, and special problems at determination hearings involving women who are advancing claims of gender-related persecution. Speaking specifically to the conduct of refugee hearings touching on sexual violence, paragraph 4(D)(1) of the

Gender Guidelines states:

Women from societies where the preservation of one's virginity or marital dignity is the cultural norm may be reluctant to disclose their experiences of sexual violence in order to keep their "shame" to themselves and not dishonour their family or community. [Note 28: The UNHCR (United Nations High Commissioner for Refugees) Executive Committee notes that decision-makers should refrain from asking women refugee claimants for details of sexual abuse. They note that, "the important thing in establishing a well-founded fear of persecution is to establish that some form of it has occurred." *Guidelines on the Protection of Refugee Women* [citation omitted] at p. 27.]

[28] Further, paragraph 4(D)(3) of the *Gender Guidelines* states:

Women refugee claimants who have suffered sexual violence may exhibit a pattern of symptoms referred to as Rape Trauma Syndrome, and may require extremely sensitive handling. Similarly, women who have been subjected to domestic violence may exhibit a pattern of symptoms referred to as Battered Woman Syndrome and may also be reluctant to testify. [Note 31: F. Stairs & L. Pope, "No Place Like Home: Assaulted Migrant Women's Claims to Refugee Status" (1990), 6 *Journal of Law and Social Policy* 148 at p. 202 stress that decision makers should be "sensitive to the fact that women whose children are attached to their claim may also be reticent to describe details of their persecution in front of their children] In some cases it will be appropriate to consider whether claimants should be allowed to have the option of providing their testimony outside the hearing room by affidavit or by videotape, or in front of members and refugee claims officers specifically trained in dealing with violence against women. Members should be familiar with the UNHCR

(United Nations High Commissioner for Refugees) Executive Committee *Guidelines on the Protection of Refugee Women* [except as indicated, all footnotes omitted].

[29] A failure to abide by the *Gender Guidelines* can constitute a reviewable error (*Keleta v Canada (Minister of Citizenship and Immigration)*, 2005 FC 56 at paras 16-21 [*Keleta*]; *Juhasz v Canada (Citizenship and Immigration)*, 2015 FC 300 at paras 55-57; *Odia v Canada (Citizenship and Immigration)*, 2014 FC 663 at para 9; and *Mabuya v Canada (Citizenship and Immigration)*, 2013 FC 372 at para 5 [*Mabuya*]).

D. *The Principles Applied*

[30] This case is unusual. The more common complaint in cases engaging the *Gender Guidelines* is that the decision-maker reached adverse credibility findings without properly taking into consideration the specific circumstances of victims of sexual violence or other forms of gender-related persecution. As Justice Gleason (as she then was) explained in *Mabuya* at para 5:

There are numerous cases in which this Court has set aside RPD decisions that fail to exhibit adequate sensitivity to the issues enshrined in the *Gender Guidelines*. Often, these cases turn on a finding that the Board's credibility determinations fail to take account of the realities faced by a female claimant, such as the impact of cultural taboos surrounding sexual violence. As a result of such taboos, survivors of sexual violence may fail to report assaults or even to speak about them contemporaneously, but such failures are not necessarily indicative of a lack of credibility. In addition, there are almost invariably no witnesses to sex-related crimes. As a result, it is often difficult for claimants who allege to have experienced sexual assault to provide corroboration for their claims. Moreover, many women find it difficult to speak about sexual violence to a stranger in the context of a hearing. Decisions which are not adequately sensitive to these sorts of realities and which impugn the credibility of claimants based on lack of

corroboration or difficulty in speaking about the assault have often been set aside as unreasonable.

[31] In contrast, the problem here is that the member evidently relied on the *Gender Guidelines* to rationalize not examining a key incident at all to the detriment of the claimants. In my view, she erred in so doing.

[32] The member does not cite the *Gender Guidelines* at the hearing but it is evident from her reasons that they influenced her approach to the evidence. After introducing the parties, the member begins her reasons with the following:

In relation to the female claimant the *Chairperson's Guidelines for Women Refugee Claimants Fearing Gender-Related Persecution* [citation omitted] were taken into account when considering the process of the hearing and the facts in this case. All relevant factors, such as social and cultural context in which the claimant found herself, along with the issue of state protection and changing country conditions were examined with consideration of the Chairperson's *Gender Guidelines*. Given the sensitive nature of the allegations, I am cognizant of the difficulties faced by the claimant in establishing her claim, including the challenge of remembering difficult and emotionally charged events, and as a result, addressed the claimant with heightened sensitivity and avoided unnecessary detail when asking questions.

[33] Citing this statement, the respondent submits that the member cannot be faulted for her good faith effort to follow the *Gender Guidelines*. I have no doubt that the member was acting in good faith. In my view, however, her application of the *Gender Guidelines* was unreasonable.

[34] Ostensibly following the *Gender Guidelines*, the member approached the claim in a way that failed to show Ms. Kolompar the respect she deserved and that actually frustrated the fact-

finding process. On the one hand, as the member recognized, it was imperative that the rape incident be approached with the requisite degree of sensitivity. On the other hand, it is evident from the member's reasons (as set out in paragraph 9 above) that she had serious concerns with respect to whether Ms. Kolompar could identify her attackers as members of the Hungarian Guard. She also had concerns with respect to the timing of Ms. Kolompar's disclosure of her knowledge of the identity of one of her attackers. These were not "unnecessary" or extraneous details that did not need to be explored at the hearing. They were central elements of the claim.

[35] In her reasons, the member states that, apart from mentioning the rape incident when she was asked about the worst thing that happened to her in Hungary, Ms. Kolompar "did not testify further about the incident." This is true, but only because when she brought it up the member immediately stated: "We will skip that incident." By dealing with the incident in this way, the member denied Ms. Kolompar the opportunity to address her credibility concerns relating to it. Crucially, by not accepting that Ms. Kolompar's attackers were Hungarian Guards, this allowed the member to find that "there is no evidence that the rape was racially motivated" and that it was "an isolated incident." This completely neutralized a key element of the claimants' narrative.

[36] The *Gender Guidelines* exist to help ensure that relevant evidence is adduced and evaluated with due sensitivity to those claiming to be victims of sexual violence and other forms of gender-related persecution. It does such claimants no favours, and undermines the integrity of the refugee determination process, simply to seal off such allegations from any examination, as

this member did – especially when the decision-maker harbours concerns about the credibility of those allegations.

[37] The respondent also submits that the member accepted that the rape occurred but found that the evidence was insufficient to satisfy her that it was a racially motivated hate crime. I am not so sure. If she was satisfied that the rape had occurred, why would the member have made a point of noting that Ms. Kolompar had not provided any “objective medical evidence she had an abortion one month following the alleged rape”?

[38] In my view, the member failed to conduct the hearing in accordance with paragraph 4(D) of the *Gender Guidelines* in particular or, more generally, with the underlying rationale of the *Gender Guidelines* as a whole. It was not a reasonable solution to the challenge of addressing a traumatic incident like a gang rape in front of the victim’s four year old child simply to say “We will skip that incident.” Unless the member was prepared to accept the written account of the incident at face value, it was incumbent upon her to find an appropriate accommodation for Ms. Kolompar so that she could advance her claim for protection fully and to ensure that she could address any concerns about the incident the member may have had. Ms. Kolompar was understandably reluctant to discuss the incident in front of her children, although she said she was willing to do so if necessary. A solution should have been found to permit this important incident to be explored fully and with due sensitivity at the hearing. In fairness to the member, counsel for the claimants at the hearing (not Ms. Lee) offered no assistance in this regard.

[39] Substance must prevail over form when determining whether the *Gender Guidelines* have been complied with (*Keleta* at para 15). It is not sufficient to uphold a decision for the decision-maker simply to have stated that the guidelines have been applied if the reasons or the conduct of the hearing suggests that they have not been followed properly. In my view, despite instructing herself regarding the *Gender Guidelines* at the outset of her reasons, the member failed to apply them properly. Far from facilitating the presentation and evaluation of evidence in a manner sensitive to the specific circumstances of a woman claiming to be the victim of sexual violence, the member's approach stymied the presentation of the refugee claim. In short, the member's reliance on the *Gender Guidelines* was unreasonable, leading to a decision that lacks justification, transparency and intelligibility.

[40] The respondent notes, correctly, that this was not the only credibility concern the member had with the family's claim for refugee protection. Moreover, the member rejected the family's claim for a number of additional reasons over and above her credibility findings. However, given the importance of the rape incident in the family's overall narrative of their experiences in Hungary, I am not satisfied that a different decision-maker who examined that narrative as a whole after properly considering that incident would inevitably conclude that the applicants had suffered only discrimination and not persecution, that their experiences were readily distinguishable from those of friends and family members who had been recognized as refugees in Canada, or that the applicants had failed to rebut the presumption of state protection. As a result, in my view these questions must also be considered afresh with respect to all the applicants.

V. CONCLUSION

[41] For these reasons, the application for judicial review is allowed, the decision of the RPD dated March 2, 2018 is set aside, and the matter is remitted to a differently constituted panel for redetermination.

[42] The parties did not suggest any serious questions of general importance for certification under section 74(d) of the *IRPA*. I agree that none arise.

JUDGMENT IN IMM-1381-18

THIS COURT'S JUDGMENT is that

1. The application for judicial review is allowed
2. The decision of the Refugee Protection Division dated March 2, 2018, is set aside and the matter is remitted for redetermination by a differently constituted panel.
3. No question of general importance is stated.

“John Norris”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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APPEARANCES:

Wennie Lee FOR THE APPLICANTS

Christopher Crighton FOR THE RESPONDENT

SOLICITORS OF RECORD:

Lee & Company FOR THE APPLICANTS
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT
Toronto, Ontario